

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Michael Kubayanda, Vice Chairman;
Mark Acton;
Ann C. Fisher; and
Ashley E. Poling

Periodic Reporting
(Proposal Eight)

Docket No. RM2019-14

ORDER GRANTING MOTION FOR ACCESS TO NON-PUBLIC MATERIALS AND
REQUIRING FURTHER POSTAL SERVICE ACTION

(Issued October 11, 2019)

On October 7, 2019, the Association for Postal Commerce (PostCom) filed a motion for access to non-public Library Reference USPS-RM2019-14/NP1.¹ PostCom identifies the materials sought, the Postal Service's stated rationale for filing the material under seal, and avers that access to the material by two of its representatives is necessary for its consideration of the Postal Service's proposal that is the subject of this docket. *Id.* at 2-3. PostCom further contends that based on the rationale proffered by the Postal Service in its application for nonpublic treatment set forth in its FY 2018 Annual Compliance Report (ACR), there are no competitive harm concerns in granting

¹ Motion of the Association for Postal Commerce for Access to Nonpublic Materials, October 7, 2019 (Motion).

PostCom's access request. *Id.* at 3. Attached to the Motion are executed declarations by the identified individuals that commit them to abide by the Commission's standard protective conditions for protected materials, in accordance with 39 C.F.R. § 3007.40. *Id.* Attachment.

PostCom also identifies that the Postal Service is silent as to its specific rationale as to why the material in Library Reference USPS-RM2019-14/NP1 does not have a corresponding public (redacted) version with aggregated information, or why the material can be understood by review of the public library references that relate to market dominant, rather than competitive products identified in the underlying ACR non-public library references. Notice at 1-2.

While the Commission generally requires a redacted version of non-public materials, it also contemplates other public versions when necessary and justified. See 39 C.F.R. §§ 3007.200(a), 3007.202(b). In this instance, the Postal Service has neither filed a public version of Library Reference USPS-RM2019-14/NP1, nor indicated why it would not be possible (*e.g.*, that all of the material would be redacted and therefore the version would not be useful to understand the content or format of the material at issue). The Postal Service must, therefore, either provide a public version of Library Reference USPS-RM2019-14/NP1, or explain how another public document (such as those referenced as helpful to understand the operation of the related ACR non-public library references) is applicable to the non-public materials filed in this docket.

Given that there is no objection to the Motion, access to non-public Library Reference USPS-RM2019-14/NP1 is granted to the two PostCom representatives. The Postal Service shall also provide a public version of Library Reference USPS-RM2019-14/NP1 consistent with 39 C.F.R. § 3007.200, or justify its use of an alternative public version consistent with 39 C.F.R. § 3007.202(b).

It is ordered:

1. The Motion of the Association for Postal Commerce for Access to Nonpublic Materials, filed October 7, 2019, is granted.
2. The two representatives identified in the Motion shall be granted access to non-public Library Reference USPS-RM2019-14/NP1.
3. The Postal Service shall, consistent with the body of this Order, provide a public version of Library Reference USPS-RM2019-14/NP1, or justify its use of an alternative public version.

By the Commission.

Darcie S. Tokioka
Acting Secretary